

REMARKS

Applicant has reviewed the Office Action mailed June 9, 2004. Claims 1, 9, 10, 12-14, 16, and 23 are being amended, claims 5, 11, 15, and 17 are being canceled, and claims 33-35 are being added by this Response. Thus, claims 1-4, 6-10, 12-14, 16, and 18-35 are pending in the application. Support for the newly added claims 33-35 may be found throughout the Specification. Applicant hereby requests further examination and reconsideration of the application in view of the following remarks.

Claim Objection

The Patent Office in the current Office Action stated an objection to claims 5, 8, 15, 17, 29, and 30 as being dependent upon a rejected base claim, but further stated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.

Applicant respectfully submits that the limitations of claim 5 have been rewritten into independent claim 1. Thus, Applicant believes that Claim 1 is allowable and therefore claims 2-4 and 6-8, which properly depend from claim 1, are allowable.

Applicant respectfully submits that the Amendment of Claim 9 to include the limitation of activation upon the impingement of a predetermined level of incident light upon the apparatus makes claim 9 allowable. Therefore, Claim 29 which properly depends from claim 9 is allowable.

Applicant respectfully submits that the limitations of claim 15 have been rewritten into independent claim 10. Thus, Applicant believes that Claim 10 is allowable and therefore claims 12-14 and 30, which properly depend from claim 10, are allowable.

Applicant respectfully submits that the limitations of claim 17 have been rewritten into independent claim 16. Thus, Applicant believes that Claim 16 is allowable and therefore claims 18-22, which properly depend from claim 16, are allowable.

Claim Rejection – 35 U.S. C. §102

Claims 1, 3-4, 6-7, 9-11, 13-14, 16, 18-28, and 31 were rejected under 35 U.S. C. §102(e) as being anticipated by Berstis et al. (US Patent No. 5,903,206). Applicant respectfully submits that the Amendment of independent claims 1, 9, 10, 16, and 23

obviate their §102(e) rejection. Applicant further submits that the Cancellation of claim 11 obviates this rejection.

Claims 3-4 and 6-7 properly depend from independent claim 1. Applicant respectfully submits that independent claim 1 is believed to be allowable and that claims 3-4 and 6-7, which properly depend from independent claim 1, are therefore believed to be allowable.

Claims 13-14 properly depend from independent claim 10. Applicant respectfully submits that independent claim 10 is believed to be allowable and that claims 13-14, which properly depend from independent claim 10, are therefore believed to be allowable.

Claims 18-22 and 31 properly depend from independent claim 16. Applicant respectfully submits that independent claim 16 is believed to be allowable and that claims 18-22 and 31, which properly depend from independent claim 16, are therefore believed to be allowable.

Claims 24-28 properly depend from independent claim 23. Applicant respectfully submits that independent claim 23 is believed to be allowable and that claims 24-28, which properly depend from independent claim 23, are therefore believed to be allowable.

Claim Rejection -- 35 U.S.C. §103

The Office rejected claims 2 and 12 under 35 U.S.C. §103(a) as being unpatentable over Bersitis et al. (US Patent No. 5,903,206) in view of Eatwell et al. (US Patent No. 5,828,768). Applicant respectfully submits that the Amendment of independent claim 1, from which claim 2 properly depends, and the amendment of independent claim 10, from which claim 12 properly depends, obviate the §103 rejection of claims 2 and 12. Therefore, Applicant respectfully requests the withdrawal of this rejection and allowance of claims 2 and 12.

CONCLUSION

The application is respectfully submitted to be in condition for allowance. Accordingly, notification to that effect is earnestly solicited. In the event the indication of allowability is withdrawn, applicant reserves the right to amend the claims back to the original form for further prosecution, without prejudice, disclaimer or estoppel. In the event that issues arise in the application that may readily be resolved via telephone, the Examiner is kindly invited to contact the undersigned Attorney at (402) 496-0300 to facilitate prosecution of the application.

Respectfully submitted,

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